

REMARKS

This amendment and response is in response to the Office Action, dated January 4, 2007 ("Office Action") with withdrawal of the finality of the previously issued office action dated September 5, 2006. Applicants thank Examiner for reconsideration and the withdrawal of the finality of the previous office action. Following entry of the present amendment, claims 1-29, 31-50, 52-101 remain pending; claims 1-22, 25-43, 46-69, 72-81, 85-89, and 91-101 having been amended; and claims 30, 51 and 75 having been canceled by virtue of the present amendment. No new matter has been added. Examination of the pending claims in view of the foregoing amendment and ensuing remarks is respectfully requested.

In the Office Action, Examiner indicated that Applicants' petition under 37 C.F.R. §1.181, to request reconsideration on the finality of the September 5, 2006, office action was found persuasive by the Office and therefore the finality of the September 5, 2006, office action is withdrawn.

Claim 1 has been amended to include the limitations of claim 77 and thus recite that the method comprises "*providing a system to receive and process a real time term, the system comprising: a search engine, adapted to receive and process an information stream and/or an information packet and to provide an indication that reflects at least one match between a query provided by a client and a real time term extracted from the information stream and/or the information packet; a relevancy determination unit, coupled to the search engine, adapted to receive the indication and to determine whether the real time term matches a keyword; wherein the relevancy determination unit comprises: a first interface adapted to receive information relating to a reception of the keyword; a processor adapted to calculate a current reception pattern and a previous reception pattern in response to the reception of information relating to the reception of the keyword and to attach a relevancy level to the keyword; a storage unit, coupled to the first interface and the processor, adapted to store the current reception pattern, the previous reception pattern and the information relating to the reception of the keyword; and utilizing said system*" to determine the relevancy of real time received

terms. The claim was also amended to recite that the real time term is extracted from a received information stream “*and/or information packet*.” Support for this amendment may be found throughout the specification; for example, page 3.

Claim 31 has been amended to recite that the various components are “*adapted to*” perform their respective operations. The claim was further amended to recite that the real time term is extracted from a received information stream “*and/or information packet*.” The claim has also been amended to recite that the processor is also adapted “*to attach a relevancy level to the keyword*” and that “*the relevancy determination unit is adapted to determine the relevancy of the keyword*.” Support for this amendment may be found throughout the specification; for example, page 3; and originally filed claim 75.

Claim 39 has been amended to recite that the information “*stream*” or packet comprises content selected from the group consisting of: text, audio, video, multimedia, and executable code streaming media. Support for this amendment may be found throughout the specification; for example, page 3.

Claim 52 has been amended to recite that the various components are “*adapted to*” perform their respective operations. The claim has also been amended to recite that the processor is also adapted “*to attach a relevancy level to the keyword*” and that “*the relevancy determination unit is adapted to determine the relevancy of the keyword*.”

Claim 56 has been amended to recite that the relevancy determination unit is “*adapted to receive*” a keyword extracted from an alert criterion. Support for this amendment may be found throughout the specification; for example, on page 15.

Claim 63 has also been amended to change the claim dependency and thus there is no longer a lack of antecedent basis. Claim 63 has also been amended to recite that the information stream “*comprises content selected from the group consisting of*” text, audio, video, multimedia, and executable code streaming media.

Claim 76 has been amended to change the claim dependency.

Claim 77 has been amended to recite that the various components are “*adapted to*” perform their respective operations. The claim has also been

amended to recite that the processor is also adapted “*to attach a relevancy level to the keyword*” and that “*the system is adapted to receive and process the real time term.*”

Claim 87 has been amended to recite that the “*search engine is adapted to extract*” a real time term. Support for this amendment may be found throughout the specification; for example, on page 34.

Claim 101 has also been amended to recite that the various components are “*adapted*” for performing their respective operations. The claim has also been amended to recite that the processor is also adapted “*to attach a relevancy level to the keyword*” and that “*the system is adapted to receive and process the real time term.*”

Claims 1-22, 25-43, 46-69, 72-81, 85-89, and 91-101 have also been amended to correct various typographical and grammatical errors, to correct for antecedent basis, and to further clarify the claims.

Examiner rejected claims 52-98 and 101 under 35 U.S.C. §101 because Examiner found that the claims “*are directed to an abstract idea and do not present a concrete tangible result*” and thus found that the claims are directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

Applicants have amended independent claims 52, 77 and 101. Claim 52, as amended, recites that “*the relevancy determination unit is adapted to determine the relevancy of the keyword.*” Claims 77 and 101, as amended, recite that “*the system is adapted to receive and process the real time term.*” Furthermore, the claims have been amended to recite that the components of the relevancy determination unit or the system are “*adapted to*” perform their respective operations. Accordingly, Applicants respectfully submit that the claims, as amended, are not directed to an abstract idea, and do present a concrete tangible result. Applicants respectfully request reconsideration and withdrawal of this rejection under §101.

Examiner rejected claims 63 and 78-86 under 35 U.S.C. §112, second paragraph, as being indefinite. Examiner stated that in claim 63, the limitation “*wherein information streams include text, audio, video, multimedia, and executable code streaming media*” lacked proper antecedent basis. Examiner also stated that claim 78 lacked proper antecedent basis for the limitation “*the group of modules*.” Applicants respectfully traverse this rejection.

With respect to claim 63, Applicants have amended the claim to change the claim dependency. As such, the claim no longer lacks proper antecedent basis.

With respect to claim 78 and claims 79-85, which depend therefrom, reference to “*the group of modules*” is made as a Markush-type claim and thus Applicants respectfully submit that the use of “*the*” as a prepositional term for the Markush group is proper and does not render the claims indefinite.

In light of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejection under §112, second paragraph.

Examiner rejected claims 52-55 and 77 under 35 U.S.C. §102(e) as being anticipated by Abe *et al.* (U.S. Pat. No. 7,089,227). Examiner found that Abe *et al.* taught a relevancy determination unit that comprises “*a first interface receiving information relating to a reception of keywords; a processor for calculating current reception patterns and previous reception patterns...; a storage unit, coupled to the first interface and processor, for storing...*” (Internal citations omitted.)

With respect to claims 53-55, Examiner found that Abe *et al.* taught that the “*processor is operable to determine a relevancy; at least one keyword is extracted; [and] the first interface is coupled to a search engine for receiving terms extracted from a client query.*”

With respect to claim 77, in addition to the above, Examiner found that Abe *et al.* taught “*a search engine for receiving and processing information streams.*”

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP §2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987)). Furthermore, a patent cannot be relied upon as anticipatory to the extent that the scope of its disclosure does not reasonably suggest those aspects relied upon in the rejection. See *Merck & Co. v. Biocraft Laboratories*, 874 F.2d 804, 10USPQ2d 1843 (Fed. Cir.), *cert. denied*, 493 U.S. 975 (1989); MPEP §2123.

Applicants respectfully submit that the “*buffer unit*” disclosed by *Abe et al.* (which was identified by Examiner as a storage unit), is not coupled to the processor as required by independent claims 52, 77 and 101. (See *Abe et al.*, figure 1.) Claims 52, 77, and 101, as amended, further recite that the processor is also adapted “*to attach a relevancy level to the keyword*.” Accordingly, Applicants respectfully submit that independent claims 52, 77, and 101, and dependent claims 53-55 are not anticipated by *Abe et al.* In light of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejection under §102(e).

Examiner stated that the non-elected claims were not to be rejoined for the following reasons. First, independent claims 1 and 31 were previously amended to include the limitation of elected claim 52 and claim 52 was not found allowable. Second, the claims were different in scope. Examiner found that claim 52 claims a relevancy determination unit or data structure whereas the non-elected claims were directed to “*determining relevancy of real time received terms by implementing an update and comparison procedure*.” Third, elected independent claims 77 and 101 were not addressed in the previous response, were also different in scope than the previously amended non-elected claims and the non-elected claims did not include the limitation of a search engine to process a query.

Applicants respectfully disagree with Examiner’s refusal for rejoinder and submit that a rejoinder of the non-elected claims is proper. First, Applicants respectfully draw Examiner’s attention to the following:

“Where claims directed to a product and to a process of...using the product are presented in the same application, applicant may be called upon under 35 U.S.C. § 121 to elect claims to either the product or a process . . . However, if applicant elects claim(s) directed to the product, which is subsequently found allowable, withdrawn process claims which...require all the limitations of an allowable product claim will be considered for rejoinder.” MPEP § 821.04(b).

Applicants respectfully submit that claims 52 and 77, as amended, are allowable, and thus claims 1 and 31 and the claims that depend therefrom, which contains all the limitations of claims 52 or 77 must be considered for rejoinder and should be rejoined because the process claims commensurate in scope with the allowable product claim.

Second, Applicants respectfully submit that the scope of the non-elected claims is not disproportionately different from the process claims such to prevent the rejoinder of non-elected claims. Applicants recognize that the “scope” of claim 52 and the non-elected claims in a *strict* sense is different, as the scope of each claim must differ. However, Applicants respectfully emphasize that the scope of claim 52 covers a product that may be used *to perform a relevancy determination of a keyword*; and the scope of non-elected claims 31-51 and 100 covers a process of using the product of claim 52 to perform a relevancy determination of a keyword. Accordingly, claim 52 and non-elected claims 31-51 and 100 commensurate in scope as they all relate to relevancy determination of a keyword. Similarly, Applicants respectfully emphasize that the scope of claim 77 covers a product that may be used for receiving and processing real time terms; and the scope of non-elected claims 1-30 and 99 covers a process of using the product of claim 77 for receiving and processing real time terms. Accordingly, claim 77 and non-elected claims 1-30 and 99 commensurate in scope as they all relate to receiving and processing real time terms.

Third, Applicants respectfully submit that Examiner’s assertion that independent claims 77 and 101 were not previously addressed, were different in scope than the amended non-elected claims and the non-elected claims did not include the limitation of a search engine to process a query is unfounded. There is no requirement for an application to address all the independent claims for a

rejoinder when the amended claims contain every limitation of one independent claim that is found allowable. As explained *supra*, claims 52 and 77 commensurate in scope with the non-elected claims as they either relate to relevancy determination of a keyword or receiving and processing real time terms. Furthermore, as set forth by the MPEP in §821.04(b), “*All claims directed to a nonelected process invention must...require all the limitations of an allowable product claim...*” (Emphasis added.) A non-elected process claim does not need the limitation of every independent claim. A non-elected process claim merely needs every limitation of one allowable claim. Thus, there is no requirement that all non-elected claims include the limitation of a search engine to process a query.

In light of the foregoing, Applicants respectfully request reconsideration for the rejoinder and rejoinder of claims 1-51 and 99-100.

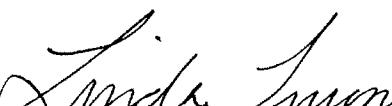
All of the claims remaining in the application are now believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

//...p.30.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (213) 633-6800.

Respectfully submitted,
Boaz JASCHEK, *et al.*
DAVIS WRIGHT TREMAINE LLP

By 
Seth D. Levy
Registration No. 44,869

By 
Linda B. Truong
Registration No. 56,461

865 South Figueroa Street, Suite 2400
Los Angeles, CA 90017-2566
Phone: (213) 633-6800
Facsimile: (213) 633-6899